

AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1628**

**Introduced by Assembly Member Frommer**

February 21, 2003

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An act to amend Section 1371.4 of the Health and Safety Code, relating to health care, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1628, as amended, Frommer. Health care.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, regulates and licenses health care service plans by the Department of Managed Health Care and makes the willful violation of the act a crime. The act authorizes a health care service plan to require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition.

~~This bill would prohibit a provider from seeking direct payment from the enrollee for any fees other than for the normal copayment for health services provided under these provisions and would require a provider that sends a billing to a patient to provide a description of how the copayment was computed.~~

~~Because this bill would impose requirements on providers, the willful violation of which is a crime, it would impose a state-mandated local program.~~

*This bill would require a health care provider to contact an enrollee's health care service plan to obtain the enrollee's medical record information prior to admitting the enrollee as an inpatient for*

*poststabilization treatment following emergency treatment, or prior to transferring an enrollee to a nonparticipating hospital for poststabilization treatment following emergency treatment under specified conditions. The bill would prohibit a health care provider that failed to contact the patient's health care service plan from billing the patient for poststabilization services.*

*Because a violation of the bill would be a crime, it would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1371.4 of the Health and Safety Code
- 2 is amended to read:
- 3 1371.4. (a) A health care service plan, or its contracting
- 4 medical providers, shall provide 24-hour access for enrollees and
- 5 providers to obtain timely authorization for medically necessary
- 6 care, for circumstances where the enrollee has received emergency
- 7 services and care is stabilized, but the treating provider believes
- 8 that the enrollee may not be discharged safely. A physician and
- 9 surgeon shall be available for consultation and for resolving
- 10 disputed requests for authorizations. A health care service plan
- 11 that does not require prior authorization as a prerequisite for
- 12 payment for necessary medical care following stabilization of an
- 13 emergency medical condition or active labor need not satisfy the
- 14 requirements of this subdivision.
- 15 (b) A health care service plan shall reimburse providers for
- 16 emergency services and care provided to its enrollees, until the
- 17 care results in stabilization of the enrollee, except as provided in
- 18 subdivision (c). As long as federal or state law requires that
- 19 emergency services and care be provided without first questioning



1 the patient's ability to pay, a health care service plan shall not  
2 require a provider to obtain authorization prior to the provision of  
3 emergency services and care necessary to stabilize the enrollee's  
4 emergency medical condition.

5 (c) Payment for emergency services and care may be denied  
6 only if the health care service plan reasonably determines that the  
7 emergency services and care were never performed; provided that  
8 a health care service plan may deny reimbursement to a provider  
9 for a medical screening examination in cases when the plan  
10 enrollee did not require emergency services and care and the  
11 enrollee reasonably should have known that an emergency did not  
12 exist. A health care service plan may require prior authorization as  
13 a prerequisite for payment for necessary medical care following  
14 stabilization of an emergency medical condition.

15 (d) If there is a disagreement between the health care service  
16 plan and the provider regarding the need for necessary medical  
17 care, following stabilization of the enrollee, the plan shall assume  
18 responsibility for the care of the patient either by having medical  
19 personnel contracting with the plan personally take over the care  
20 of the patient within a reasonable amount of time after the  
21 disagreement, or by having another general acute care hospital  
22 under contract with the plan agree to accept the transfer of the  
23 patient as provided in Section 1317.2, Section 1317.2a, or other  
24 pertinent statute. However, this requirement shall not apply to  
25 necessary medical care provided in hospitals outside the service  
26 area of the health care service plan. If the health care service plan  
27 fails to satisfy the requirements of this subdivision, further  
28 necessary care shall be deemed to have been authorized by the  
29 plan. Payment for this care may not be denied.

30 ~~(e) (1) If there is a disagreement between a health care service~~  
31 ~~plan and a provider about health care services delivered pursuant~~  
32 ~~to this section to an enrollee, the provider may not seek direct~~  
33 ~~payment from the enrollee for any fees other than the normal~~  
34 ~~copayment for the covered service under the enrollee's contract.~~

35 ~~(2) Any billing sent to the patient shall include a description of~~  
36 ~~how the copayment was computed.~~

37 ~~(f)~~—A health care service plan may delegate the responsibilities  
38 enumerated in this section to the plan's contracting medical  
39 providers.

40 ~~(g)~~

(f) Subdivisions (b), (c), (d), (g), and (h), ~~and (i)~~ shall not apply with respect to a nonprofit health care service plan that has 3,500,000 enrollees and maintains a prior authorization system that includes the availability by telephone within 30 minutes of a practicing emergency department physician.

~~(h)~~

(g) The Department of Managed Health Care shall adopt by July 1, 1995, on an emergency basis, regulations governing instances when an enrollee requires medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to requests for treatment authorization.

~~(i)~~

(h) The Department of Managed Health Care shall adopt, by July 1, 1999, on an emergency basis, regulations governing instances when an enrollee in the opinion of the treating provider requires necessary medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to a request for treatment authorization from a treating provider who has a contract with a plan.

~~(j)~~

(i) The definitions set forth in Section 1317.1 shall control the construction of this section.

(j) (1) *A health care provider shall contact an enrollee's health care service plan to obtain the enrollee's medical record information prior to admitting the enrollee as an inpatient or prior to transferring the patient to another hospital, if all of the following apply:*

(A) *The provider is able to obtain the name of the enrollee's health care service plan.*

(B) *The provider is a nonparticipating hospital in California that wants to admit the enrollee as an inpatient for poststabilization care following emergency services, or wants to transfer the enrollee to a nonparticipating hospital in California for poststabilization care following emergency services.*

(C) *The health care service plan has a practicing emergency physician available within 30 minutes who has access to the enrollee's medical records, and who can transmit the records to the provider via telephone, facsimile, or e-mail.*

1 (D) The health care service plan can provide authorization for  
2 poststabilization care and obtain information concerning  
3 copayments that the nonparticipating hospital may charge the  
4 enrollee.

5 (2) A health care provider required to contact an enrollee's  
6 health care service plan pursuant to this subdivision shall do so as  
7 soon as reasonably possible, but not until it will not endanger the  
8 enrollee.

9 (3) If a health care provider required to contact an enrollee's  
10 health care service plan pursuant to this subdivision fails to do so,  
11 the health care provider may not bill the enrollee for medical  
12 services provided following stabilization.

13 (4) This subdivision requires only one provider to contact the  
14 health care service plan, and does not require each treating  
15 physician, licensed health care professional, and hospital to  
16 contact the health care service plan.

17 SEC. 2. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.

26 SEC. 3. This act is an urgency statute necessary for the  
27 immediate preservation of the public peace, health, or safety  
28 within the meaning of Article IV of the Constitution and shall go  
29 into immediate effect. The facts constituting the necessity are:

30 In order to prohibit the seeking payments from an enrollee of a  
31 health care service plan for services after emergency care that are  
32 disputed as quickly for the provisions of this act protecting the  
33 health of patients may take effect as soon as possible, it is necessary  
34 that this act take effect immediately.